IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 82 of 1994

The Commissioner of Income Tax ... Applicant.

vs.

Shri K. S. Gandhi ..... Respondent

Mr. Ashok Kotangale, Sr. Counsel with
Mr. D.A. Dubey i/b. S. Bhattacharya for Applicant.

CORAM: V**. C. DAGA AND A. S. AGUIAR JJ.**

Date: 26h July, 2005.

P. C. :

1. The above matter, was on our board on 18th July 2005 when one week's time was granted as a last chance at the request of the learned counsel for the applicant to effect service on the Respondent. Till today no material is placed before us to show that service has been effected on the Respondent. Even today learned counsel for the applicant is not in a position to make a statement as to whether service has been effected or any steps in that behalf were taken, inspite of the fact that the issue involved in this case is covered by the judgment of this court, in the case of **Commissioner**

of Income Tax vs. Gopal Krishna Suri reported in 248 ITR 819 (Bom.). We cannot answer the issue and hold in favour of the Revenue. Such a decision would be clearly in breach of principles of natural justice. In this view of the matter we would be justified in returning the reference without answering the question referred to our opinion. Even otherwise the tax effect is negligible and this matter is squarely covered by the decision in the case of **Commissioner of Income-tax v/s. Camco Colour Co.,** reported in ITR Vol. 254 (2002), page 565. In this view of the matter we have no option but to return the reference unanswered. Reference stands disposed of with no order as to costs.

(V. C. DAGA J.)

(A. S. AGUIAR J.)

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